

TaxVine

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National Charities and Not-for-Profits Technical Committee Chair's Report

Bridgid Cowling

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In this week's TaxVine, Bridgid Cowling, Chair of The Tax Institute's National Charities and Not-for-Profits Technical Committee discusses the key challenges which face the charitable and not-for-profit sector.

What's new for Charities & Not-for-Profits?

For many charities and not-for-profits, the challenges of 2020 persist. A large number of these organisations continue to face increased demand for their services, caused initially by the bushfires and then by the COVID-19 pandemic, while they slowly emerge from a long period of being unable to engage in their usual income producing and

fundraising activities.

To overcome these challenges, there is a continuing and urgent need for reduction of red tape. A national fundraising scheme is needed to remove unnecessary barriers to the financial recovery of charities and not-for-profits. Legislation to simplify charity administration by abolishing the public fund requirements for deductible gift recipients (**DGRs**) and integrating the DGR registers into the Australian Charities and Not-for-profits Commission (**ACNC**) system, as foreshadowed in 2017, is eagerly awaited. On a larger scale, The Tax Institute's National Charities and Not-for-profits Technical Committee is keenly pursuing the harmonisation of eligibility for charitable tax concessions across the State, Territory and Federal tax systems. Not a new task or a small task, but one that will have a major positive impact on the sector.

While we advocate for this change, charities, not-for-profits and their advisers also have more immediate reforms to consider. I have outlined three of these below.

DGR reform

On 17 March 2021, the *Treasury Laws Amendment (2021 Measures No. 2) Bill 2021* was introduced into Parliament. Some of the technical concerns raised by the sector in relation to the draft legislation were not ironed out in the final bill, but these should not cause great concern. Once the bill is enacted, all non-government DGRs (other than specifically listed DGRs) will be required to be, or be operated by, registered charities. There will be a period of 12 months for all necessary charity registration applications to be made, with the potential for an extension to be obtained.

ACNC Governance Standards

In February 2021, Governance Standard 6 was added to the suite of ACNC Governance Standards. Governance Standard 6 requires a charity to take reasonable steps to become a participant in the National Redress Scheme for Child Sexual Abuse if the charity is, or is likely to be, identified as being involved in the abuse of a person within the scope of the Redress Scheme.

It is interesting to see the governance standards employed in such a prescriptive way. Independent of general support for the Redress Scheme, there was an underlying concern expressed within the sector that this is contrary to the intention of the governance standards that

they are to be a set of high-level principles rather than precise rules.

Treasury has also published an exposure draft of proposed amendments to Governance Standard 3. Contrary to Recommendation 9 of the *Strengthening for Purpose: Australian Charities and Not-for-profits Commission Legislative Review 2018* that Governance Standard 3 should be repealed, the Government intends to expand it.

The proposed amendments would expand the governance standard to cover charities engaging in conduct that might be treated as a summary offence in relation to persons or property. It would also require charities to take reasonable steps to ensure that their resources are not used to promote or support acts or omissions by any entity that may be dealt with as a summary offence, or an indictable or serious civil offence. These draft amendments are concerning. They are far too broad in their scope and effect and promise to create significant administrative burden for charities, which is the opposite of what the sector needs. An amending bill effecting these measures has not yet been introduced into Parliament.

Re-fresh of TR 97/22

Finally, for non-charity NFPs, progress inches forward on the re-fresh of [TR 97/22 Income tax: exempt sporting clubs](#). This was understandably put on hold while the ATO also managed the challenges of 2020, but consultations have recommenced. The ATO proposes to release a draft ruling in the first half of 2021 so watch this space.

The Tax Institute's Charities and Not-for-profits Technical Committee will continue to consider the impacts of these reforms and advocate for the best result for our members and the tax system.

As always, we welcome your views and thoughts, which you can provide [here](#).

Kind regards,

Bridgid Cowling